



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the application of

Mitja V. HINDERKS

Serial No.: 08/477,703

Group Art Unit: 3747

Examiner: N. Kamen

Filed: June 7, 1995

For: A FLUID WORKING DEVICE

December 27, 2001

PETITION TO COMMISSIONER UNDER 37 CFR 1.181

Assistant Commissioner for Patents
Washington, DC 20231

Sir:

Applicant hereby petitions the Commissioner to enter the Amendment filed April 25, 2001 after Final Rejection mailed October 25, 2000. The Examiner refused entry of the amendment because it raised new issues and would require further consideration and/or search. Applicant takes issue with this holding of the Examiner. New claims 195, 196 and 197 were added following the cancellation of claims 69, 120 and 185. The new claims all relate to subject matter already before the Examiner. See claims 144, 187-189 and 191. Claims 61, 66, 67, 75, 106, 118, 121 and 184 were amended to render the claims more specific and even more to avoid the art. Accordingly, no new issues were raised, nor further search required.

The Advisory Action was apparently sent out by the Examiner, but never received by applicant. Toward the end of the response period, having not heard from the Examiner, applicant's attorney left an inquiry message on the Examiner's voice mail which was promptly responded to by indicating that the application had been allowed. Applicant then waited for a Notice of Allowance to be issued, which also was never received. The Examiner was again contacted, who informed

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applicant that an error had been made and that the amendment under consideration had been refused entry. A one-page Advisory Action with no date was received shortly thereafter. Since the extension period was about to expire, applicant filed a Second Submission under 37 CFR 1.129 on October 24, 2001 and Briefs on October 25, 2001. On November 27, 2001, a fax was received by applicant's attorney upon which no mailing date was indicated stating to the effect that the Briefs did not contain arguments subject to review by the Board of Appeals and giving applicant a month or 30 days within which to respond – in this situation a 30-day period. Applicant is thus responding within the 30 days. It is therefore submitted that no new issues are raised that would require further consideration and/or search. It is therefore respectfully requested that the Amendment After Final Rejection be entered and the case be passed to issue.

The applicant's comments are as follows:

The applicant has never not had a response entered. The response was applicant's best effort to resolve all outstanding issues. No reason was given for non-entry of the amendment. Applicant has sought an interview with the Examiner, but has not been successful to get one granted. Applicant would like to know what part of the amendment was objectionable and to suggest modifications and amendments. In the event the Petition is denied, the applicant would like to have detailed reasons why the response to the Final Rejection was not entered upon review of the reason. The applicant desired an opportunity to make possibly minor supplemental amendments that would permit a Notice of Allowance to be issued after the many years the applicant has maintained this application.

A \$130.00 petition fee is enclosed herewith. The Commissioner is hereby authorized to charge any deficiency in the fee(s) filed, or asserted to be filed, or which should have been filed herewith to Deposit Account No. 08-0873.

Respectfully submitted,


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